

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

May 25, 2017

The Honorable Corey Stapleton
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary Stapleton:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 174 (SB 174), "AN ACT PROHIBITING A FINDING OF UNCONSCIONABILITY BY THE COURT FOR CERTAIN TENANT AND LANDLORD RESPONSIBILITIES; REVISING REQUIREMENTS RELATED TO NONCOMPLIANCE OF TENANTS; AND AMENDING SECTIONS 70-24-404, 70-24-422, 70-24-423, 70-33-403, 70-33-422, AND 70-33-423, MCA."

In 2015, I vetoed SB 372 – a bill nearly identical to SB 174. I now veto SB 174 for the same reasons.

SB 174 would restrict the ability of a court to find a rental agreement unconscionable if the challenged provision can be linked to state statutes requiring tenants and landlords to maintain the premises. As a general matter, I look with disfavor upon laws which limit the discretion of the courts. In landlord-tenant disputes, it is particularly important for courts to have the leeway needed to assess specific facts. A rental agreement that cites to §70-24-321 ("Tenant to maintain dwelling unit.") or §70-24-303 ("Landlord to maintain premises . . .") could, under SB 174, be interpreted as precluding a court from assessing the specific facts involving the formation and implementation of that agreement.

Certain magic words should not immunize a rental agreement from a finding of unconscionability. What matters is whether the terms of the agreement unreasonably favor the drafter and whether there was any meaningful choice on the part of the other party in accepting the provisions. Summers v. Crestview Apartments, 2010 MT 164, ¶ 22. SB 174 would unnecessarily inject restrictions and confusion into what are otherwise clear judicial standards.

Further, SB 174 would require tenants to vacate the premises upon a written notice of termination of the rental agreement for alleged violations of the agreement. This change to the law would eliminate the right of the tenant to stay in the premises if the tenant decides to challenge the termination notice in court. It is simply not reasonable to eject a tenant from a dwelling unit while a court action is pending that will determine whether or not the tenant may remain in the dwelling.

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For these reasons, I veto SB 174.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Bullock', with a long horizontal flourish extending to the right.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Scott Sales, President of the Senate
Austin Knudsen, Speaker of the House